

Chapter 925: MARKETING

925.01 Production, processing, maintenance and sale of shell eggs definitions.

As used in sections 925.01 to 925.13 of the Revised Code:

- (A) "Food processor" means any person, other than an egg breaker, who utilizes broken eggs to produce a food product.
- (B) "Processor" means any person engaged in the operation of assembling, receiving, grading, or packing shell eggs for commercial sale or distribution.
- (C) "Producer" means any person engaged in the operation of egg production who maintains annually more than five hundred birds.

Effective Date: 06-20-1994

925.02 Standards, grades, weight classes for shell eggs.

The standards, grades, and weight classes for shell eggs adopted by the United States department of agriculture, agricultural marketing service, poultry division, effective July 1, 1958, are hereby adopted as the standards, grades, and weight classes for shell eggs of this state, provided that the term "United States" or "U.S." need not be used in designating the grades or weight classes of shell eggs and the term "consumer" need not be used in designating the consumer grades and weight classes for shell eggs.

Supplements to and revisions of the above federal standards, grades, and weight classes for shell eggs shall be adopted by the director of agriculture in accordance with Chapter 119. of the Revised Code.

Sections 3715.01, 3715.02, and 3715.52 to 3715.71 of the Revised Code apply to shell eggs when such sections are not in conflict with sections 925.01 to 925.13 of the Revised Code.

Effective Date: 06-20-1994

925.021 Egg container labels.

(A) No person shall sell, offer for sale, or expose for sale shell eggs in a container which is not labeled with:

- (1) The name and address of the packer or distributor;
- (2) An accurate statement of the quantity of the contents in terms of numerical count;
- (3) The date the shell eggs were processed;
- (4) The correct grade and size or weight class of the contents thereof in accordance with the standards adopted by this state, provided that containers of shell eggs which have not been graded for quality or which fail to meet the requirements of a grade adopted by this state:
 - (a) Shall be labeled "ungraded" or "unclassified";
 - (b) May be labeled "mixed size" in lieu of a standard size or weight class adopted by this state, if the eggs average twenty-one ounces or more per dozen.

(B) Except as provided in division (C) of this section, no person shall sell, offer for sale, or expose for sale shell eggs unless the labeling required by division (A) of this section is prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(C) This section does not apply to shell eggs inspected by an agency of the United States government.

Effective Date: 10-06-1992

925.022 Sale of shell eggs from bulk lot.

No person shall sell, offer for sale, or expose for sale shell eggs from a bulk lot which is not plainly marked with a placard having letters no less than one-half inch high designating the correct grade and size or weight class of the bulk lot in accordance with the standards adopted by this state, provided that a bulk lot of shell eggs which has not been graded for quality or which fails to meet the requirements of a grade adopted by this state:

(A) Shall be plainly marked with a placard having letters no less than one-half inch high which states "ungraded" or "unclassified";

(B) May be plainly marked with a placard having letters no less than one-half inch high which states "mixed size" in lieu of stating a standard size or weight class adopted by this state, if the eggs average twenty-one ounces or more per dozen.

Effective Date: 10-06-1992

925.023 Advertising eggs.

(A) No person shall advertise shell eggs in any manner or by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of shell eggs unless such advertisement includes the correct grade and size or weight class of the shell eggs so advertised in accordance with the standards adopted by this state, provided that such advertisement of shell eggs which have not been graded for quality or which fail to meet the requirements of a grade adopted by this state:

(1) Shall state "ungraded" or "unclassified";

(2) May state "mixed size" in lieu of a standard size or weight class adopted by this state, if the eggs average twenty-one ounces or more per dozen.

(B) The statements required in any advertisement of shell eggs by division (A) of this section shall be prominently placed on such advertisement with such conspicuousness as compared with other words, statements, designs, or devices in the advertisement as to render them likely to be read and understood by the ordinary individual.

Effective Date: 10-06-1992

925.024 Terms used in sale of eggs.

No person shall sell, offer for sale, or advertise for sale shell eggs as "No. 1," "specials," "fancy," "direct from farm," "quality eggs," "hennery eggs," "fresh eggs," "new laid eggs," or "strictly fresh eggs," or any other name of similar import that do not meet the minimum requirements for United States consumer grade A.

Effective Date: 10-06-1992

925.025 Terms used suggesting federal grading.

No person shall advertise, sell, offer for sale, or expose for sale shell eggs as federally graded or under any other terms that imply that they have been graded by an agency of the United States government, unless such shell eggs have been officially graded by an agency of the United States government and cases, cartons, or any other containers properly labeled or sealed under the supervision of the grading service of the United States government.

Effective Date: 10-06-1992

925.03 Maintaining shell eggs in refrigeration.

(A) Each producer and processor shall maintain shell eggs in refrigeration at an ambient temperature that does not exceed forty-five degrees Fahrenheit.

(B) Each food processor, distributor, and owner or operator of a food service establishment, retail food store, or other food establishment shall maintain any shell eggs intended for sale or distribution in refrigeration at an ambient temperature that does not exceed forty-five degrees Fahrenheit from the time the shell eggs are received by him until the time they are sold or distributed.

(C) The owner or operator of a premises where shell eggs are required to be maintained in refrigeration shall have in use at all times a thermometer, graduated in degrees Fahrenheit, that clearly indicates the ambient temperature at which the shell eggs are being maintained.

Effective Date: 10-06-1992

925.04 Records of date of processing of shell eggs.

Each producer and processor shall keep records of the date of processing of the shell eggs distributed, sold, or offered for sale by him. Each producer and processor shall maintain such records for not less than six months after the shell eggs are packaged and shall make the records available to the director of agriculture or his designee upon request.

Effective Date: 10-06-1992

925.05 Enforcement - evidence.

The director of agriculture shall enforce sections 925.01 to 925.13 of the Revised Code. Certificates of inspection issued by licensed inspectors of the grading service of the United States government are prima facie evidence in any court of facts contained therein.

Effective Date: 06-20-1994

925.06 Administrative rules.

The director of agriculture may adopt, amend, and rescind rules as he considers necessary to administer and enforce sections 925.01 to 925.13 of the Revised Code.

Effective Date: 06-20-1994

925.07 Right of entry for inspection of premises.

In the administration of sections 925.01 to 925.13 of the Revised Code, the director of agriculture or his designee, on any business day and during normal business hours, may enter and inspect any premises where shell eggs are produced, processed, stored, or sold, offered for sale, or exposed for sale as is necessary to determine compliance with sections 925.02 to 925.13 and applicable rules adopted under section 925.06 of the Revised Code.

Effective Date: 06-20-1994

925.08 Violations prohibited.

No person shall fail to comply with sections 925.01 to 925.13 of the Revised Code or an applicable rule adopted under section 925.06 of the Revised Code. Each day of violation constitutes a separate offense.

Effective Date: 06-20-1994

925.09 Restraining order against violation.

In addition to the remedies available and irrespective of whether there exists an adequate remedy at law, the attorney general, upon the request of the director of agriculture, may bring an action for an order restraining a person from violating section 925.08 of the Revised Code.

Effective Date: 10-06-1992

925.10 Exempted producers.

Producers selling only shell eggs of their own hens' production on the premises where produced or selling directly to hatcheries are exempted from sections 925.01 to 925.13 of the Revised Code.

Effective Date: 06-20-1994

925.11 Crediting of fines.

Fifty per cent of all fines collected under sections [925.01](#) to [925.13](#) of the Revised Code shall be paid into the state treasury to the credit of the general revenue fund; the remaining fifty per cent shall be credited to the general fund of the political subdivision where the case is prosecuted.

Effective Date: 06-20-1994

925.12 Payment of receipts of prosecutions into general revenue fund.

All fines, fees, and costs collected under prosecutions begun, or caused to be begun, by the director of agriculture, shall be paid by the court to the director within thirty days after collection, unless an appeal on questions of law has been properly begun and prosecuted. In case the judgment is sustained, the fine shall be paid within thirty days after such judgment or affirmance and by the director paid into the state treasury to the credit of the general revenue fund.

Effective Date: 10-06-1992

925.13 Collection of unpaid fines.

If the court fails to pay a fine within the time specified in section [925.12](#) of the Revised Code, and after demand has been made therefor, the director of agriculture shall add ten per cent thereto and certify such claim and penalty to the attorney general, who shall proceed as provided in section [131.02](#) of the Revised Code.

Effective Date: 10-06-1992

925.14 Amended and Renumbered RC 3715.03.

Effective Date: 06-20-1994

925.21 Containers for fresh fruits and vegetables definitions.

As used in sections [925.22](#) to [925.32](#), inclusive, of the Revised Code:

- (A) "Fruit or vegetable" means any fresh unprocessed fruit or vegetable which is intended for human consumption.
- (B) "Container" means any device used to hold or enclose a quantity of fruits or vegetables, except one with a capacity of one dry quart or less which is packed in a larger container marked in compliance with sections [925.21](#) to [925.32](#), inclusive, of the Revised Code.
- (C) "Person" includes any individual, company, partnership, corporation, or association or any combination of individuals of whatever form and character, also any employee, agent, or officer thereof.
- (D) "Unclassified" means that no grade has been applied to a quantity of fruits or vegetables.

Effective Date: 01-14-1972

925.22 Content of labels on containers.

(A) Every person who packs or repacks fresh fruits or vegetables, consigns, delivers, receives, distributes, has in his possession for sale, sells, or offers the same for sale, either privately or in the open market, shall cause such containers to be marked in a plain and legible manner as follows:

- (1) With his full name and address;
- (2) With the contents, by net weight at the time of sale, numerical count, or dry measure expressed in units established in accordance with Chapter 1327. of the Revised Code, except that if the contents of the container consist of a number of single units, tied bunches, or properly labeled and individually weighed retail packages of fruits or vegetables, each container shall be marked with the numerical count;
- (3) With the grade in accordance with the standards adopted by the department of agriculture if the container holds peaches, apples, potatoes, or dry onions;
- (4) With the minimum size and variety of apples or graded peaches held by the container, and, if the variety cannot be identified, with the term "variety unknown";

(5) With the identity of the fruit or vegetable, if it is concealed.

(B) Letters or numbers used to mark containers of fruits or vegetables in accordance with sections 925.21 to 925.32 of the Revised Code shall be not less than:

(1) One-eighth inch in height on any label, on any container of which the weight is ten or more pounds and less than fifty pounds;

(2) Three-eighths inch in height on any label, on any container of which the weight is less than ten pounds;

(3) Five-eighths inch in height on any label, on any container of which the weight is fifty or more pounds;

(4) Five-eighths inch in height on tags attached to containers of fruits or vegetables other than "culls."

(C) Each person who places a label, stamp, or other marking required by sections 925.21 to 925.32 of the Revised Code, on any container of fruits or vegetables shall:

(1) Place the label, stamp, or mark on:

(a) The side, end, or cover of any box, basket, or carton;

(b) The front or face of any bag;

(c) A tag attached to any bag;

(d) An insert, clearly visible, and legibly marked, in a transparent container.

(2) Separate each grade marked, or other mark required from any design or other statement on the label by a space equal to or larger than the largest letter on the label.

(D) Any person may completely obliterate an erroneous grade, and place the correct grade marking on the label of a container in a plain and legible manner.

(E) Any person who re-grades the contents of a container of any fruit or vegetable which fails to meet the minimum requirement for the grade marked on the container because of permanent grade defects, as set forth in the grade standards shall:

(1) Remove the entire contents from the original container;

(2) Re-pack such contents in containers which bear markings required by sections 925.21 to 925.32 of the Revised Code.

Effective Date: 07-26-1974

925.23 Markings of containers.

No person shall sell, offer for sale, receive, distribute, or expose or have in his possession for sale, either privately or upon the open market, fresh fruits or vegetables packed in containers unless such containers are marked in accordance with sections 925.21 to 924.32, inclusive, of the Revised Code.

Effective Date: 01-14-1972

925.24 Markings on used containers.

Whenever fresh fruits or vegetables are packed, re-packed, sold, or offered for sale in containers previously used by another person or which were manufactured and labeled for any person other than the grower, packer, or re-packer any inaccurate markings pertaining to the previous contents of such containers shall be first obliterated, and new markings placed thereon, which markings shall be plain, distinguishable, and legible. If any type of bag is used, it shall be turned inside out so that no previous markings are exposed to view and new markings placed thereon.

Effective Date: 01-14-1972

925.25 False representation of contents.

No person shall sell, offer for sale, or have in his possession for sale, either privately or on the open market, consign, deliver, receive, or distribute any container covered under sections 925.21 to 925.32, inclusive, of the Revised Code, if the face or exposed surface gives a false representation of the contents. It is a false representation if such face is not reasonably representative, in size, color, quality, and varietal characteristics, of the remaining portion of the container.

Effective Date: 01-14-1972

925.26 Adoption of federal grades.

Federal grades with any future grades, additions, or changes including "unclassified" in the case of peaches, potatoes, and dry onions, as well as a domestic grade to provide for the sale of marketable apples, which may include dropped apples, are hereby adopted by this state and apply whenever the grower or packer marks the grade of the fruit or vegetable on the container. Sections 925.21 to 925.32, inclusive, of the Revised Code do not apply to apples whose point or [of] origin is outside this state, which are graded and labeled according to the legalized grades of the state of their origin and which grades are approved by the department of agriculture.

The director of agriculture, pursuant to Chapter 119. of the Revised Code, may adopt regulations that add to, modify, or delete any grade for any fruit or vegetable.

Effective Date: 01-14-1972

925.27 Exceptions.

Sections 925.21 to 925.32 and sections 1327.46 to 1327.61 of the Revised Code do not apply to fruits or vegetables that are:

- (A) In transit from point of origin to a processing or grading establishment;
- (B) Exposed on the floor of a grading or processing establishment;
- (C) Sold and delivered by the producer to the consumer on the premises where produced.

Effective Date: 07-26-1974

925.28 Culls to be so labeled.

Containers of apples which do not meet any of the grade requirements shall be labeled with a sign bearing the word "culls" in well-proportioned letters at least two and one-half inches in height.

Effective Date: 01-14-1972

925.29 False or misleading statement of quality or quantity.

No person shall make a false or misleading statement, written or oral, with reference to the quantity, grade, price, variety, minimum size, or state of origin of any fruit or vegetable held or offered for sale.

Effective Date: 01-14-1972

925.30 Notice of detention of container not properly marked.

(A) Whenever the director of agriculture finds or has cause to believe that any container of any fruit or vegetable is not marked in accordance with sections 925.21 to 925.32, inclusive, of the Revised Code, he shall affix to such container a tag or other appropriate marking:

- (1) Giving notice that such container is or is suspected of not being properly marked and has been detained;
- (2) Warning all persons not to remove or dispose of such container by sale or otherwise until written permission for removal or disposal is given by the director or a court of competent jurisdiction.

(B) No person shall remove or dispose of any container of fruits or vegetables described in a notice of detention given by the director.

Effective Date: 01-14-1972

925.31 Enforcement.

Judges of the county courts, mayors, municipal courts, and courts of common pleas have jurisdiction in sections 925.21 to 925.32, inclusive, of the Revised Code. The director of agriculture and such other employees of the department of agriculture as he designates, police officers, sheriffs, and deputy sheriffs shall enforce such sections. Certificates of inspection issued by authorized inspectors of the department or a sample of a container, label, invoice, bill of lading, or any other written matter pertaining to a specific container of any fruit or vegetable which does not comply with sections 925.21 to 925.32, inclusive, of the Revised Code, are prima-facie evidence of the facts contained therein in any of said courts when properly identified by the testimony of an agent of the director.

Effective Date: 01-14-1972

925.32 Fines collected paid into general revenue funds.

Fifty per cent of all fines assessed under sections 925.21 to 925.32, inclusive, of the Revised Code, shall be paid into the general revenue fund. The remaining fifty per cent shall be credited to the general revenue fund of the county or municipality where the case is prosecuted.

Effective Date: 01-14-1972

925.33 [Repealed].

Effective Date: 01-14-1972

925.34 Amended and Renumbered RC 925.31.

Effective Date: 01-14-1972

925.41 to 925.44 [Repealed].

Effective Date: 01-14-1972

925.45, 925.46 Amended and Renumbered RC 925.26, 925.28.

Effective Date: 01-14-1972

925.48, 925.48 [Repealed].

Effective Date: 01-14-1972

925.49 Amended and Renumbered RC 925.32.

Effective Date: 01-14-1972

925.50 [Repealed].

Effective Date: 01-14-1972

925.51 Prepackaging at retail store level definitions.

As used in sections 925.51 to 925.60, inclusive, of the Revised Code:

(A) "Fresh fruits or vegetables" means all fresh fruits or fresh vegetables.

(B) "Container" means any package with capacity, not to exceed five pounds, either entirely transparent, or so constructed that at least two-thirds of the contents are visible.

(C) "Person" includes any individual, company, partnership, corporation, or association or any combination of individuals of whatever form and character, and any employee, agent, or officer thereof.

(D) "Advertisement" includes all representations disseminated in any manner or by any means, other than by a label on the commodity, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of fresh fruits or vegetables.

Effective Date: 02-21-1967

925.52 Marking of fresh fruit and vegetable containers.

Each person who prepackages fresh fruits or vegetables in containers in the same retail store, market, or business establishment where said commodities are being exposed or offered for retail sale shall cause such containers to be marked in plain and legible manner as follows:

(A) With the full name and address of the retail store, market, or business establishment packaging and offering same for sale or the main office of said establishment;

(B) With the net content by weight if the content is preweighed to arrive at the total price;

(C) With the numerical count if the contents are offered for sale by numerical count, except that no count marking shall be required when the package contains six or less units.

Effective Date: 10-08-1965

925.53 Misbranding fresh fruit and vegetable containers.

No person shall sell, offer for sale, or expose or have in his possession for sale fresh fruits or vegetables which have been prepackaged in containers in the same retail store, market, or business establishment where said commodities are being exposed or offered for sale if said containers are misbranded.

A container of fresh fruits and vegetables prepackaged at retail store level is misbranded if:

(A) Its labeling is false or misleading in any particular.

(B) Its contents have been falsely advertised as to grade, size, quantity, variety, or state of origin.

(C) It does not bear a label marked in accordance with sections 925.51 to 925.60, inclusive, of the Revised Code.

Effective Date: 10-08-1965

925.54 Additional grades and regulations for sale of fresh fruits and vegetables.

The director of agriculture, subject to sections 119.01 to 119.13, inclusive, of the Revised Code, may promulgate additional grades and regulations for the sale of fresh fruits and vegetables.

Effective Date: 10-08-1965

925.55 False representation of contents of fresh fruit and vegetable containers.

No person shall sell, offer for sale, expose, or have in his possession for sale fresh fruits or vegetables prepackaged in the same retail store, market, or business establishment where said commodities are being exposed or offered for sale in containers in which the face or exposed surface gives a false representation of the contents of such package. It shall be considered a false representation if said face is not reasonably representative in size, color, quality, and varietal characteristics of the remaining portion of such package.

Effective Date: 10-08-1965

925.56 Federal grades to be applied.

Federal grades for fresh fruits and vegetables as adopted by the state, and any future grades, shall be applied if the person prepackaging said commodities in the same retail store, market, or business establishment where said commodities are being exposed or offered for retail sale marks the grade of the product.

Effective Date: 10-08-1965

925.57 Examination of establishments where packaging and sale occurs.

In the administration of sections 925.51 to 925.60, inclusive, of the Revised Code, the director of agriculture or his employees or agents, on any business day and during the usual hours of business, may enter any store, market, or business establishment where fresh fruits and vegetables are prepackaged and offered for sale and make such examination as is necessary to determine whether said commodities are being properly packaged and labeled.

Effective Date: 10-08-1965

925.58 Tagging misbranded article.

Whenever the director of agriculture finds or has cause to believe that any fresh fruit or vegetable is misbranded within the meaning of sections 925.51 to 925.60, inclusive, of the Revised Code, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the director, or the court. No person shall remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Effective Date: 10-08-1965

925.59 Certificates of inspection prima facie evidence.

The attorney general, prosecuting attorney, or city director of law to whom the director of agriculture reports any violation of sections 925.51 to 925.60 of the Revised Code, shall cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Certificates of inspection issued by licensed inspectors of the department of agriculture are prima-facie evidence of the facts contained therein in any of the courts.

Effective Date: 11-01-1977

925.60 Fines paid to general revenue fund.

All fines assessed under sections 925.51 to 925.59, inclusive, of the Revised Code, shall be paid into the general revenue fund of this state.

Effective Date: 10-08-1965

925.61 Cucumber grades and standards.

The director of agriculture shall, by regulations adopted in accordance with sections 119.01 to 119.11, inclusive, of the Revised Code, establish standards and grades for cucumbers which shall be used by all commercial plants and by all persons representing or employed by such plants, when cucumbers for pickling are purchased from growers. The director shall establish such standards and grades as may be necessary for determining quality and size of cucumbers for pickling as they are received from or delivered by a grower to a brining plant, packing plant, processing plant, or loading station. In establishing such standards and grades, the director shall consider the standards and grades established in other states.

On and after January 1, 1970, no contract for the growing or purchase of cucumbers for commercial pickling made on the basis of standards or grades different from those established in accordance with this section may be enforced in the courts of this state.

Effective Date: 10-22-1969

925.62 Dying rabbits and chicks.

No person, firm, or corporation shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person, firm, or corporation shall sell, offer for sale, expose for sale, raffle, or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away, or otherwise distributed to any person in lots of less than six. Stores, shops,

vendors, and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

Effective Date: 10-21-1971

925.99 Penalty.

(A) Whoever violates sections 925.21 to 925.32 or 925.51 to 925.59 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 925.62 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the third degree.

(C) Whoever violates section 925.07 of the Revised Code is guilty of a minor misdemeanor on a first offense; on a second offense the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense the person is guilty of a misdemeanor of the third degree.

Effective Date: 06-20-1994